

AMENDED IN ASSEMBLY AUGUST 25, 1998

AMENDED IN ASSEMBLY AUGUST 20, 1998

AMENDED IN ASSEMBLY JUNE 17, 1998

AMENDED IN SENATE MAY 20, 1998

AMENDED IN SENATE APRIL 28, 1998

AMENDED IN SENATE MARCH 30, 1998

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**SENATE BILL**

**No. 1913**

**Introduced by Senator Ayala**  
**(Coauthors: Senators Polanco and Vasconcellos)**  
(Coauthor: Assembly Member Goldsmith)

February 19, 1998

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An act to amend Sections 6125, 6126, 6127, 6128, and 6129 of, and to add Sections 5066, 6126.1, and 6126.2 to, the Penal Code, relating to the office of the Inspector General, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1913, as amended, Ayala. Office of the Inspector General.

Existing law establishes the office of the Inspector General, to be housed and supported by the Youth and Adult Correctional Agency, and prescribes the responsibilities of that office. Existing law authorizes the office of the Inspector General to receive communications from any individual employed by any department, board, or authority who believes he or she may have information that may describe a

variance from departmental investigatory policies and procedures.

This bill would revise and recast these provisions by specifying that the office of the Inspector General shall be independent, and would require the Youth and Adult Correctional Agency, in consultation with the Commission on Correctional Peace Officer Standards and Training and the Inspector General, to establish a certification program for investigators of the office of the Inspector General, the Youth and Adult Correctional Agency, the Department of the Youth Authority, the Department of Corrections, the Board of Corrections, the Youthful Offender Parole Board, and the Board of Prison Terms. The bill also would require the Inspector General to establish a toll-free public telephone number to be posted at specified locations for the purpose of identifying any alleged wrongdoing by any public safety employee.

The bill additionally would authorize the State Controller, at the request of the Department of Finance, to transfer positions and funds, as appropriated in the Budget Act of 1998, from the Youth and Adult Correctional Agency to the Department of Corrections and the Department of the Youth Authority for purposes of the internal affairs operations of those departments, thereby making an appropriation. Under the bill, all funds appropriated and positions created for support of the office of the Inspector General in the Budget Act of 1998, would be required to be transferred, upon approval of the Department of Finance, to the office of the Inspector General created by these provisions. *The bill also would require the Department of Corrections, the Department of the Youth Authority, and the office of the Inspector General to submit a deficiency request to the Department of Finance pursuant to the Budget Act of 1998.*

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5066 is added to the Penal Code,  
2 to read:



1 5066. The Director of Corrections shall expand the  
2 existing prison ombudsman program to ensure the  
3 comprehensive deployment of ombudsmen throughout  
4 the state prison system with specific focus on the  
5 maximum security institutions. The director shall submit  
6 a report to the chairs of the appropriate fiscal and policy  
7 committees on the Legislature by February 1, 1999,  
8 outlining the plans for implementation of this section.

9 SEC. 2. Section 6125 of the Penal Code is amended to  
10 read:

11 6125. There is hereby created the independent office  
12 of the Inspector General, which shall not be a subdivision  
13 of any other governmental entity. The Governor shall  
14 appoint the Inspector General, subject to Senate  
15 confirmation of that appointment.

16 SEC. 3. Section 6126 of the Penal Code is amended to  
17 read:

18 6126. (a) Inspector General shall be responsible for  
19 reviewing departmental policy and procedures for  
20 conducting investigations and audits of investigatory  
21 practices and other audits and investigations of the  
22 Department of Corrections, the Department of the  
23 Youth Authority, the Board of Prison Terms, the Youthful  
24 Offender Parole Board, or the Board of Corrections, as  
25 requested by either the Secretary of the Youth and Adult  
26 Correctional Agency or a Member of the Legislature,  
27 pursuant to the approval of the Inspector General under  
28 policies to be developed by the Inspector General.

29 (b) Upon completion of an investigation or audit, the  
30 Inspector General shall provide a response to the  
31 requester.

32 (c) In the accomplishment of investigatory audits, the  
33 Inspector General shall also identify areas of full and  
34 partial compliance, and noncompliance, with  
35 departmental investigatory policies and procedures,  
36 specify deficiencies in the completion and  
37 documentation of investigatory processes, and  
38 recommend corrective actions, including, but not limited  
39 to, additional training with respect to investigative  
40 policies.

1 SEC. 4. Section 6126.1 is added to the Penal Code, to  
2 read:

3 6126.1. (a) In consultation with the Commission on  
4 Correctional Peace Officer Standards and Training and  
5 the Inspector General, the Youth and Adult Correctional  
6 Agency shall establish a certification program for  
7 investigators under the jurisdiction of the Inspector  
8 General, the Youth and Adult Correctional Agency, the  
9 Department of the Youth Authority, the Department of  
10 Corrections, the Board of Corrections, the Youthful  
11 Offender Parole Board, and the Board of Prison Terms.  
12 The investigators' training course shall be consistent with  
13 the standard courses utilized by other major investigative  
14 offices, such as county sheriff and city police departments  
15 and the California Highway Patrol.

16 (b) Beginning January 1, 1999, all internal affairs  
17 investigators conducting investigations for the office of  
18 the Inspector General, the Youth and Adult Correctional  
19 Agency, the Department of the Youth Authority, the  
20 Department of Corrections, the Board of Corrections, the  
21 Youthful Offender Parole Board, and the Board of Prison  
22 Terms shall complete the investigation training and be  
23 certified within six months of employment.

24 (c) Beginning January 1, 1999, all internal affairs  
25 investigators shall successfully pass a psychological  
26 screening exam before becoming employed with the  
27 office of the Inspector General, the Youth and Adult  
28 Correctional Agency, the Department of the Youth  
29 Authority, the Department of Corrections, the Board of  
30 Corrections, the Youthful Offender Parole Board, or the  
31 Board of Prison Terms.

32 SEC. 5. Section 6126.2 is added to the Penal Code, to  
33 read:

34 6126.2. The Inspector General, the Youth and Adult  
35 Correctional Agency, the Department of the Youth  
36 Authority, the Department of Corrections, the Board of  
37 Corrections, the Youthful Offender Parole Board, and the  
38 Board of Prison Terms shall not hire as an internal affairs  
39 investigator any person known to be directly or indirectly  
40 involved in an open internal affairs investigation being

1 conducted by any federal, state, or local law enforcement  
2 agency or the Inspector General.

3 SEC. 6. Section 6127 of the Penal Code is amended to  
4 read:

5 6127. (a) The Department of Corrections, the  
6 Department of the Youth Authority, the Board of Prison  
7 Terms, the Youthful Offender Parole Board, the Board of  
8 Corrections, the Narcotic Addict Evaluation Authority,  
9 the Prison Industry Authority, and the Youth and Adult  
10 Correctional Agency shall comply with all requests of the  
11 Inspector General for any document or record contained  
12 on any medium. The Inspector General shall be deemed  
13 to be a department head for the purpose of Section 11189  
14 of the Government Code in connection with any  
15 investigation or audit conducted pursuant to this chapter.

16 (b) The Inspector General may require any employee  
17 of either department to be interviewed on a confidential  
18 basis. Any employee so requested shall comply and shall  
19 have time afforded by the appointing authority for the  
20 purpose of an interview with the Inspector General or his  
21 or her designee. Any record created by an interview shall  
22 be deemed confidential for use by the Inspector General  
23 and the Secretary of the Youth and Adult Correctional  
24 Agency only. It is not the purpose of these  
25 communications to address disciplinary action or  
26 grievance procedures that may routinely occur.

27 SEC. 7. Section 6128 of the Penal Code is amended to  
28 read:

29 6128. (a) The office of the Inspector General may  
30 receive communications from any individual, including  
31 those employed by any department, board, or authority  
32 who believes he or she may have information that may  
33 describe a variance from departmental investigatory  
34 policies and procedures. The identity of the person  
35 providing the information shall be held as confidential by  
36 the Inspector General and may be disclosed only to the  
37 secretary or the Governor, or the appropriate director or  
38 chair, in confidence or a law enforcement agency in the  
39 furtherance of their duties. It is not the purpose of these

1 communications to redress any single disciplinary action  
2 or grievance that may routinely occur.

3 (b) In order to properly respond to any allegation of  
4 improper governmental activity, the Inspector General  
5 shall establish a toll-free public telephone number for the  
6 purpose of identifying any alleged wrongdoing by an  
7 employee of any public safety department, board, or  
8 authority. This telephone number shall be posted  
9 throughout all state public safety departments, boards,  
10 and authorities in clear view of all employees and the  
11 public. When appropriate, the Inspector General shall  
12 initiate an investigation or audit of any alleged  
13 wrongdoing. However, any request to conduct an  
14 investigation shall be in writing. The request shall be  
15 confidential and is not subject to disclosure under the  
16 Public Records Act (Chapter 3.5 (commencing with  
17 Section 6250) of Division 7 of Title 1 of the Government  
18 Code).

19 (c) The identity of the person providing the  
20 information that initiated the investigation shall not be  
21 disclosed without the person's written permission, except  
22 to a law enforcement agency in the furtherance of its  
23 duties.

24 SEC. 8. Section 6129 of the Penal Code is amended to  
25 read:

26 6129. (a) Any state employee at any rank and file,  
27 supervisory, or managerial level who intentionally  
28 engages in acts of reprisal, retaliation, threats, coercion,  
29 or similar acts against an employee of either department  
30 for having disclosed what the employee, in good faith,  
31 believed to be improper activities shall be disciplined by  
32 adverse action as provided in Section 19572 of the  
33 Government Code. If no adverse action is instituted by  
34 the appointing power, the State Personnel Board shall  
35 invoke adverse action as provided in Section 19583.5 of  
36 the Government Code.

37 (b) In addition to all other penalties provided by law,  
38 any state employee at any rank and file, supervisory, or  
39 managerial level who intentionally engages in acts of  
40 reprisal, retaliation, threats, coercion, or similar acts



1 against an employee of either department for having  
2 disclosed what the employee, in good faith, believed to be  
3 improper activities shall be liable in an action for damages  
4 brought against him or her by the injured party. Punitive  
5 damages may be awarded by the court if the acts of the  
6 offending party are proven to be malicious. If reliability  
7 has been established, the injured party also shall be  
8 entitled to reasonable attorney's fees as provided by law.

9 (c) The Inspector General, the Youth and Adult  
10 Correctional Agency, the Department of the Youth  
11 Authority, the Department of Corrections, the Board of  
12 Corrections, the Youthful Offender Parole Board, and the  
13 Board of Prison Terms shall refer matters involving  
14 criminal conduct to the proper law enforcement  
15 authorities in the appropriate jurisdiction for further  
16 action. The entity making a referral to the local district  
17 attorney shall also notify the Attorney General of the  
18 action. If the local district attorney refuses to accept the  
19 case, he or she shall notify the referring entity who shall  
20 subsequently refer the matter to the Attorney General.  
21 If the local district attorney has not acted on the matter,  
22 the referring entity shall notify the Attorney General. It  
23 is the intent of the Legislature that the Department of  
24 Justice avoid any conflict of interest in representing the  
25 State of California in any civil litigation that may arise in  
26 a case in which an investigation has been or is currently  
27 being conducted by the Bureau of Investigation by  
28 contracting when necessary for private counsel.

29 SEC. 9. Notwithstanding any other provision of law,  
30 the Controller, at the request of the Department of  
31 Finance, shall transfer positions and funds from the Youth  
32 and Adult Correctional Agency, Item 0550-001-0001 of the  
33 Budget Act of 1998, to the Department of Corrections and  
34 the Department of the Youth Authority for internal  
35 affairs operations.

36 SEC. 10. All funds appropriated and positions created  
37 for support of the office of the Inspector General in Item  
38 0550-001-0001 of the Budget Act of 1998 shall be  
39 transferred upon approval of the Department of Finance

1 to the office of the Inspector General as established  
2 pursuant to Section 1 of this act.

3 *SEC. 11. Notwithstanding any provision of law, the*  
4 *Department of Corrections, the Department of the*  
5 *Youth Authority, and the office of the Inspector General*  
6 *shall submit a deficiency request to the Department of*  
7 *Finance pursuant to Section 27 of the Budget Act of 1998.*

